**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**

**CIVIL APPELLATE JURISDICTION**

APPEAL FROM ORDER NO.1152 OF 2005
WITH
CIVIL APPLICATION NO.766 OF 2005
WITH
APPEAL FROM ORDER NO.1155 OF 2005
WITH
CIVIL APPLICATION NO.768 OF 2005

Ms.Rashtabee Chand Miyan & Anr. ..Appellants.

V/s.

The Municipal Corpn.of Gr.Bombay
& Ors. ..Respondents.

Mr.R.S.Ghadge for appellants.

Mr.V.S.Kapse for respondent No.7.

Mrs.Geeta Joglekar for BMC.

**CORAM: A.M.KHANWILKAR,J**

**DATE : JANUARY 31, 2006.**

**P.C. :**

1. Heard counsel for the parties.

2. A.O.No.1155 of 2005 is not on today's board and was scheduled to be listed tomorrow. However, upon mentioning taken on board, to be heard alongwith A.O. No.1152 of 2005, by consent of the parties.

3. I find no reason to depart from the conclusion reached by the court below that the plaintiffs cannot be heard to challenge the

permission granted in favour of the defendant by the competent authority for sale of chicken in Colaba Market being a policy decision. The policy decision has not been challenged in the suit. So long the policy decision of the corporation operates, it is incomprehensible how it can be said that the respondent was indulging in illegal activities in selling chicken. No provision has been brought to my notice which prohibits sale of chicken in Colaba Market. If there is any grievance of the plaintiffs which could require consideration being one of the infraction of any statutory provision or any regulation made by the authorities in exercise of powers under the Statute, those aspects can be brought to the notice of the trial court which will consider the same on its own merits in accordance with the law.

4. Counsel for the appellants prays that the appellants be permitted to amend the suit. That request be made before the trial court which will be considered on its own merit.

5. Appeal as well as civil application dismissed accordingly.